

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (PHILADELPHIA)**

IN RE:	:	Bankruptcy No. 16-14342
	:	
SHARON P. HAMPTON,	:	
Debtor	:	Chapter 13
	:	
	:	Hearing Date: February 13, 2018
	:	Hearing Time: 11:00 a.m.
	:	
	:	United States Bankruptcy Court
	:	Courtroom No. 5
	:	900 Market Street
	:	Philadelphia, Pennsylvania 19107

**MOTION OF CBS BKAP, LP FOR RELIEF FROM THE
AUTOMATIC STAY TO EXERCISE ITS STATE COURT
REMEDIES AGAINST THE REAL ESTATE LOCATED AT
3029 WEST FONTAIN STREET, PHILADELPHIA, PENNSYLVANIA**

CBS BKAP, LP, by and through its counsel, Charles N. Shurr, Jr., Esquire of Kozloff Stoudt, moves this Court pursuant to 11 U.S.C. § 362 for relief from the automatic stay to exercise its state court remedies against the Debtor's real estate located at 3029 Fontain Street, Philadelphia, Pennsylvania 19121, and in support thereof, states as follows:

1. CBS BKAP, LP is a Delaware limited partnership with an address of 294 Union Street, Hackensack, New Jersey 07601 ("Creditor") and is the holder of a secured claim against the Debtor.
2. Sharon P. Hampton is an adult individual with an address of 3029 Fontain Street, Philadelphia, Pennsylvania 19121 ("Debtor") and commenced this Chapter 13 bankruptcy proceeding on June 16, 2016.

The Debtor is also responsible for all additional accrued interest, late fees, legal fees, and collection costs.

9. Under the terms of the Debtor's Third Amended Chapter 13 Plan ("Chapter 13 Plan"), which was confirmed on November 8, 2017, the Debtor was supposed to pay the regular post-petition payments due on the Note directly to the Creditor and cure the pre-petition arrearages due on the Note through her Chapter 13 Plan.

10. However, the Debtor has failed to comply with the terms of her Chapter 13 Plan, as she has not made the required post-petition payments to the Creditor.

Motion For Relief

11. This Motion seeks relief from the stay imposed under 11 U.S.C. § 362, so that the Creditor may exercise its state court remedies with respect to the Debtor's Real Estate, including, without limitation, executing upon and foreclosing on the Real Estate.

12. Section 362(d) the Bankruptcy Code provides that upon request of a party in interest and after notice and a hearing thereon, the court shall grant relief with respect to a stay against property for cause where (i) the interests of a party in such property are not adequately protected, or (ii) there is no equity in such property and it is not necessary to an effective reorganization.

13. Under 11 U.S.C. § 362(d)(1) the Creditor is entitled to relief from the automatic stay, as the Debtor has not offered adequate protection for the interest of the Creditor in the Real Estate and the interest of the Creditor in the Real Estate is not adequately protected.

14. The Creditor is not adequately protected in the Real Estate, as the Debtor is due for the July 1, 2016 post-petition payment and all subsequent post-petition payments on the Note.

15. Under 11 U.S.C. § 362(d)(2) the Creditor is entitled to relief from the automatic stay, as the Real Estate is not necessary to an effective reorganization of the Debtor.

16. The Debtor has failed to comply with the terms of her Chapter 13 Plan and, thus, is unable to effectively reorganize.

17. Based on the foregoing, the Creditor is entitled to relief from the automatic stay under 11 U.S.C. § 362 with regard to the Real Estate, as (i) the interest of the Creditor in the Real Estate is not adequately protected, and (ii) the Real Estate is not necessary to an effective reorganization of the Debtor.


18. The Creditor avers that the fourteen (14) day period under Fed. R. Bankr. P. 4001(a)(3) should not apply in this matter.

WHEREFORE, CBS BKAP, LP respectfully requests this Honorable Court enter an Order, substantially in the form of the attached proposed Order, vacating the automatic stay imposed under 11 U.S.C. § 362 as to CBS BKAP, LP with respect to the Debtor's Real Estate located at 3029 West Fountain Street, Philadelphia, Pennsylvania 19121, so that CBS BKAP, LP may exercise its state court remedies with respect to said Real Estate, and for such other and further relief as is just and equitable under the circumstances.

Respectfully Submitted,

KOZLOFF STOUT

Date: 1/17/18

By: 
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